

**Effective 5/10/2016**

**9-8-404 Agency responsibilities -- State historic preservation officer to comment on undertaking -- Public Lands Policy Coordinating Office may require joint analysis.**

- (1)
  - (a) Before expending any state funds or approving any undertaking, each agency shall:
    - (i) take into account the effect of the expenditure or undertaking on any historic property; and
    - (ii) unless exempted by agreement between the agency and the state historic preservation officer, provide the state historic preservation officer with a written evaluation of the expenditure's or undertaking's effect on the historic property.
  - (b) Once per month, the state historic preservation officer shall provide the Public Lands Policy Coordinating Office with a list of undertakings on which an agency or federal agency has requested the state historic preservation officer's or the Antiquities Section's advice or consultation.
  - (c) The Public Lands Policy Coordinating Office may request the joint analysis described in Subsections (2)(c) and (d) of any proposed undertaking on which the state historic preservation officer or Antiquities Section is providing advice or consultation.
- (2)
  - (a) If the state historic preservation officer does not concur with the agency's written evaluation required by Subsection (1)(a)(ii), the state historic preservation officer shall inform the Public Lands Policy Coordinating Office of any objections.
  - (b) The Public Lands Policy Coordinating Office shall review the state historic preservation officer's objections and determine whether or not to initiate the joint analysis established in Subsections (2)(c) and (d).
  - (c) If the Public Lands Policy Coordinating Office determines further analysis is necessary, the Public Lands Policy Coordinating Office shall, jointly with the agency and the state historic preservation officer, analyze:
    - (i) the cost of the undertaking, excluding costs attributable to the identification, potential recovery, or excavation of historic properties;
    - (ii) the ownership of the land involved;
    - (iii) the likelihood of the presence and the nature and type of historical properties that may be affected by the expenditure or undertaking; and
    - (iv) clear and distinct alternatives for the identification, recovery, or excavation of historic properties, including ways to maximize the amount of information recovered and report that information at current standards of scientific rigor.
  - (d) The Public Lands Policy Coordinating Office, the agency, and the state historic preservation officer shall also consider as part of the joint analysis:
    - (i) the estimated costs of the alternatives in Subsection (2)(c)(iv) in total and as a percentage of the total cost of the undertaking; and
    - (ii) at least one plan for the identification, recovery, or excavation of historic properties that does not substantially increase the cost of the proposed undertaking.
- (3)
  - (a)
    - (i) If the state historic preservation officer concurs with the agency's evaluation or if the Public Lands Policy Coordinating Office determines that the joint analysis is unnecessary, the state historic preservation officer shall, no later than 30 calendar days after receiving the agency's evaluation, provide formal comments on the agency's evaluation.

- (ii) If a joint analysis is conducted, the state historic preservation officer shall provide formal comments on the agency's evaluation no later than 30 calendar days after the conclusion of the joint analysis.
  - (b) The state historic preservation officer shall ensure that the comments include the results of any joint analysis conducted under Subsection (2).
  - (c) If a joint analysis is not conducted, the state historic preservation officer's comments may include advice about ways to maximize the amount of historic, scientific, archaeological, anthropological, and educational information recovered, in addition to the physical recovery of specimens and the reporting of archaeological information at current standards of scientific rigor.
- (4)
- (a) Once per month, the state historic preservation officer shall provide the Public Lands Policy Coordinating Office with a list of comments the state historic preservation officer intends to make or has made as required or authorized by the National Historic Preservation Act, 54 U.S.C. Sec. 300101 et seq.
  - (b) At the request of the Public Lands Policy Coordinating Office, the state historic preservation officer shall discuss the comments with the Public Lands Policy Coordinating Office.

Amended by Chapter 348, 2016 General Session